Soundbites vs Substance:
Deconstructing the Emotional Rhetoric Surrounding Florida Statute §768.21(8)

A White Paper Submitted to the Florida Legislature In support of

HB 6003 (2026 Session)

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Legalized Negligence and The Accountability Gap

Date of Submission: November 5th, 2025

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Executive Summary

Soundbites vs Substance: Deconstructing the Emotional Rhetoric Surrounding §768.21(8)

For more than three decades, the public debate surrounding §768.21(8), Florida's wrongful death statute, has been shaped less by principle and policy than by emotion and repetition of familiar soundbites. Statements such as *"We want accountability," "We want justice," "It's not about the money,"* and *"We have no recourse under the law"* have become the rallying cries of the repeal movement. Yet these claims—however sincere—often obscure more than they clarify, and have led lawmakers into a cycle of symbolic gestures rather than substantive reform.

This white paper examines the core assertions made by advocates for repeal and evaluates them through the lenses of law, logic, and the social contract. It demonstrates that accountability, properly understood, is a procedural safeguard—not an emotional verdict—and that true justice requires transparency, accurate fact-finding, and structural correction, not merely access to a jury. A civil verdict may acknowledge error, but it cannot reform a hospital, change a physician's practices, or prevent recurrence. Only administrative oversight, peer review, and mandated disclosure can accomplish those tasks.

The assertion that surviving family members "have no recourse" is also incorrect as a matter of law. Families may file complaints with the Department of Health or the Agency for Health Care Administration, and disciplinary action—including findings of negligence—can and does occur. The problem is not the absence of recourse but the inadequacy of administrative enforcement. Lenient penalties, limited transparency, and institutional reluctance to acknowledge error leave families feeling unheard, misled, or excluded. This vacuum breeds suspicion, transforms grief into certainty, and turns tragedies into unverified allegations that are then presented to lawmakers as proven medical negligence.

An effective legislative solution cannot be built upon allegations, sentiment, or symbolic victories. It must address the underlying system failures that allow preventable errors to occur and, worse, to be concealed. The real question before the Legislature is not simply whether Subsection (8) should be repealed, but whether Florida is willing to implement a framework that ensures candor, swift communication with families, mandatory error disclosure, and documented corrective action. Without such reforms, a clean repeal—

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however well-intentioned—offers nothing more than the possibility of a financial award to one family while leaving the broader community no safer than before.

True reform requires shifting the focus from emotional vindication to systemic integrity:

- admitting errors when they occur,
- informing families honestly,
- documenting corrective action, and
- ensuring compliance through independent oversight.

Justice is not achieved when one family receives a verdict. Justice is achieved when the next patient lives because the system learned from the last one who didn't.

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Table of Contents

Author's Note:..... 5

Authority:..... 5

I. "We Want Accountability" 7

II. "We Have No Recourse" — A Misstatement of Law and Reality 9

III. "We Want Justice" 11

IV. "It's Not About the Money" 12

V. "You Can't Put a Price on a Human Life" 14

VI. "Governor DeSantis Did Not Meet with the Families" 16

VII: Allegations Are Not Evidence: Beginning the Conversation on Common Ground 18

VIII: Addressing the Real Problem: Preventing Malpractice Instead of Arguing Over It 20

Closing Statement: Restoring Faith in the System..... 21

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Author's Note:

The following pages are offered in fellowship to all who labor for the repeal of Florida Statute §768.21(8). My purpose is the same as theirs—to restore justice where law has failed—but my path to that end may differ. I have learned that progress is rarely advanced by unanimity of sentiment alone. Every movement requires at least one voice willing to question assumptions, to test the soundness of its rhetoric, and to measure passion against principle. The questions raised herein are not intended to divide; they are offered to refine. If they provoke discomfort, it is only because truth seldom yields to comfort; conviction must withstand the discipline of examination before it deserves the dignity of action.

Authority:

This paper is addressed to the full Legislature of the State of Florida regarding **HB6003**, which seeks once again to repeal Florida Statute §768.21(8). To be clear, I support the repeal of this subsection, as it unjustly denies certain families the same right of redress granted to others under the law and a jury of their peers to decide the extent of their emotional damages. However, my purpose in submitting this paper [***"Soundbites vs Substance: Deconstructing the Emotional Rhetoric Surrounding §768.21(8)"***] is not merely to add another voice of support, but to crystallize the reasoning behind it. For too long, the debate surrounding this statute has been driven by slogans and emotion rather than logic, consistency, and structure. My goal is to assist legislators in distinguishing between rhetorical appeal and functional reform by examining oft-used soundbites, and to encourage a conversation grounded in reasoned principle rather than repetition of emotionally charged mantras. In doing so, I hope to contribute to a more disciplined and durable path toward both justice and accountability, one that strengthens public trust while preserving fairness for all parties involved.

Article I, Section 5, Florida Constitution – Petition for Redress of Grievances

Article I, Section 5 of the Florida Constitution guarantees every citizen the right "to assemble, to instruct their representatives, and to petition for redress of grievances." The phrase "*petition for redress"* originates in Anglo-American constitutional tradition, tracing back to the Magna Carta and the 1689 English Bill of Rights, and it preserves the people's authority to call their government to account when laws, policies, or actions cause harm or injustice. To "petition for redress" is to formally request that a governing body recognize and correct a [perceived wrong], whether through legislation, repeal, amendment, or

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administrative reform. It is not a plea for favor, but an assertion of civic ownership: a reminder that government is the servant of the people, bound to hear their complaints and to act within its constitutional capacity to remedy them. In Florida, as in the federal tradition, this right embodies the foundational principle that *the governed retain the ultimate authority to demand correction when justice fails or the law departs from its purpose*. [Article I, Section I, Florida Constitution, and Amendment I, U.S.Constitution]

In exercising this constitutional right, I submit ***Soundbites vs Substance*** as a formal petition for redress within the scope of Article I, Section 5. This work is not an act of protest, it is an act of instruction, a reasoned appeal to those elected to legislate in the name of justice. It seeks to illuminate the flaws in the current discourse surrounding §768.21(8) and to encourage a shift away from emotional advocacy toward thoughtful reform that truly protects the people of Florida, the medical profession, and the interests of the State. By presenting this analysis to the Legislature, I am fulfilling both the letter and the spirit of the constitutional guarantee: assembling peaceably via the written word, instructing representatives through evidence and logic, and petitioning the government to correct an inequity that has persisted for more than three decades.

The starting point for any meaningful discussion of §768.21(8) must be with the word most often invoked by repeal advocates and least defined—***accountability***. It stands at the center of every speech, headline, and rally, yet its meaning drifts with each speaker. For some, accountability is financial; for others, moral; for still others, institutional. This lack of a unified definition has allowed the term to become more of a slogan than a principle. If lawmakers are to legislate with integrity, they must first reclaim the precision of their language. The first section of this work, therefore, examines what "accountability" truly means within a system of ordered liberty, where consequence must be measured, responsibility must be verified, and justice must serve both the individual and the community.

Respectfully Submitted,

Philip Glickstein/Legalized Negligence: An Advocacy of One

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I. “We Want Accountability”

Of all the soundbites that populate this debate, none carries more rhetorical weight, and less precision, than *“We want accountability.”* It has become the universal mantra of moral injury, repeated so often that few ever stop to ask what it truly means. The tragedy is that this word, once meant to express responsibility and reform, has been stretched so thin that it now means whatever the speaker feels it means at the moment of outrage.

Accountability, properly understood, is a structured response to wrongdoing that acknowledges harm, compensates the victim quickly and fairly through proportionate consequences, and prevents recurrence. It is not revenge, not public shaming, and not the theatrical satisfaction of watching a defendant lose. Those are human emotional responses to seeing allegations become findings of fact. Proper accountability is procedural; it transforms outrage into structure. It is what distinguishes civil conduct from vengeance, order from chaos. It is, in fact, why we agree to a social contract.

Yet, within the movement to repeal §768.21(8), *accountability* has been fragmented into multiple, conflicting meanings:

- To some, it means a jury verdict, a public acknowledgement that negligence occurred.
- To others, it means a financial penalty, a way to make a doctor “feel the consequence of his negligence.”
- And to many, it means moral acknowledgment, the hope that the physician or hospital will finally admit fault.

These are very different aims, and they cannot be achieved through a single mechanism. A jury verdict cannot reform a hospital, money cannot produce remorse, and the courts cannot legislate conscience. In my analysis, what these advocates truly seek is a *moral conversation* masquerading as a legal proceeding.

If accountability is to serve both justice and community safety, it must have one definition—the same application for everyone. Therefore, I submit that:

Accountability is the process by which error is acknowledged, responsibility is assigned, and corrective action is documented and verified.

That definition places the burden not merely on the individual doctor, nurse, or hospital, but on the *system* that allowed the negligence to occur. It moves the focus from the

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courtroom to the Board of Medicine/Nursing, from the adversarial to the procedural, from spectacle to structure.

By that definition, accountability becomes something measurable, tangible, and evidence-based:

- Did the physician or institution admit the error?
- Was the family truthfully informed?
- Were changes implemented to prevent recurrence?
- And was compliance verified by an independent authority?

Those questions produce accountability. The courtroom, at best, produces acknowledgment from the community's jury pool of the error, assigns a dollar amount to the surviving family members' emotional suffering, but cannot reform the system that allowed the error to occur in the first place. That's the job of the Administrative Agencies.

Until we speak a common language, until *accountability* means the same thing to every participant, the movement will remain fractured, chasing emotional catharsis rather than public safety. Proper accountability is not won with a verdict or settlement. It is achieved when the next patient lives because we learned from the last one who didn't.

Advocates often say, "I'm not doing this for me; I'm doing it so that no other family will ever have to go through what mine has." On its face, that sounds altruistic—a recognition of the social contract that binds citizens to one another when their government fails to protect them as promised. But genuine altruism demands more than sentiment; it requires action that benefits the whole. A jury award, no matter how large, rarely benefits more than one family directly. It does not, by itself, prevent future harm or reform the system that allowed the loss to occur in the first place.

Some advocates argue that such verdicts deter future negligence, and that may be partly true. But deterrence through individual litigation is a blunt and unreliable instrument compared to transparency and reform, especially when pain-and-suffering awards are compensatory rather than punitive.

Faithful adherence to the social contract requires citizens to pursue structural change, not symbolic victory—to insist that their government restore transparency, accountability, and fairness so that justice serves all, not just one.

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NOTE: Many of the most vocal advocates, including me, have long since passed the statute of limitations for filing a wrongful death claim based on medical negligence. Once that window closes, the law no longer recognizes their individual right to seek redress. Their participation in the repeal movement, therefore, cannot result in personal compensation; it can only serve as a symbolic act. Yet rather than using that position to champion reforms that would prevent future harm, they continue to press for a remedy that would not have helped them even if enacted. In that sense, their cause has become detached from its stated purpose. True altruism would convert that frustration into a campaign for systemic transparency and prevention, not into a call for endless litigation they themselves could never pursue.

II. "We Have No Recourse" — A Misstatement of Law and Reality

Before we can address the questions of justice or reform, we must confront this widespread misconception that continues to distort the public debate. A frequently repeated assertion in the repeal movement is, "We have no legal recourse because of Subsection (8)." It is an effective soundbite, but it is not accurate. Subsection (8) restricts one specific legal pathway — the ability of certain surviving family members to pursue non-economic damages in civil court. It does **not** bar families from filing administrative complaints, initiating state investigations, or seeking professional discipline through the Department of Health (DOH), the Agency for Health Care Administration (AHCA), or the relevant licensing boards.

In other words, while the civil remedy is limited, the administrative remedy remains fully available. A family that believes medical negligence occurred may still file a complaint, compel a review, trigger a peer investigation, and, when appropriate, secure an official finding of negligence. The Keith Davis case illustrates this point clearly. After Mr. Davis' death, his daughter Sabrina filed a complaint with the Florida Department of Health. Her complaint worked its way through the system to the Board of Medicine. The Board investigated, substantiated the allegation, found the physician negligent, and imposed a penalty. One may argue that the $7,500 fine was inadequate — indeed, I agree it was— but to say that Ms. Davis had "no recourse" is incorrect. Ms. David indeed had recourse, and she used it.

The Keith Davis case demonstrated two truths at once: the system works, and the system works poorly. The deeper problem, then, is not that families lack a pathway to accountability; it is that the path they do have is too weak to command public confidence.

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However, that weakness lies in the administrative system, not Subsection (8). When advocates say they want accountability, and the Board of Medicine confirms negligence, the nominal fine imposed upon the negligent physician is not an issue caused by the wrongful-death statute, but in the State's regulatory response to medical negligence. *It is the Board's leniency, not the statute's limitation,* that deprives families of the belief that justice has been done.

If the movement's true goal is accountability, as its leaders insist, then its primary focus should be on strengthening administrative sanctions, increasing transparency in disciplinary proceedings, and ensuring that negligence findings lead to meaningful corrective action. Civil litigation cannot achieve those objectives. A jury verdict cannot mandate a hospital to change its policies, cannot require continuing education, and cannot impose conditions on a physician's license. Only the administrative bodies have that authority. Though Ms. Davis' efforts over the past five years to repeal Subsection (8) are commendable, her time would have better served public safety if she had focused her efforts on working to strengthen the fines and sanctions the Board of Medicine can impose on negligent doctors.

This underscores the profound inconsistency in the advocates' position. Many of the most outspoken voices have already passed the statute of limitations for filing a civil claim. For them, repeal would provide no personal remedy. Yet rather than directing their energy toward reforming the system that still affects every Floridian — the system that determines whether negligent practitioners are disciplined or permitted to practice without consequence — they continue to pursue a remedy that can no longer assist them and that, even if restored, would benefit only individual families one case at a time.

A movement that genuinely seeks to prevent future harm must focus on the mechanisms that govern medical conduct, not merely those that award financial compensation. Administrative reform protects the entire community; civil verdicts compensate only one family. A strategy that prioritizes the latter while neglecting the former is not a pursuit of accountability — it is a pursuit of symbolism. Proper public safety requires more.

Understanding this distinction between civil limitation and administrative recourse is essential because it reveals that the actual barrier to public safety is not Subsection (8) itself but the structural weakness of the State's disciplinary system.

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III. “We Want Justice”

If the word *accountability* has been stretched thin by emotion, the word *justice* has been nearly scoured of meaning altogether. Every group claims it, every movement invokes it, and every speech ends with it. Yet few stop to define what they are actually seeking when they call upon its name.

The cry of *“We want justice”* resonates because it speaks to something primal—the human need for wrongs to be righted and suffering to be acknowledged. But justice, in a civil society, cannot mean whatever any one of us feels it should mean at a given moment. If we are to claim it collectively, we must define it collectively.

At present, the word *justice* carries different meanings for different participants in this debate:

- For many surviving family members, justice means recognition, a public statement that their loved one’s death mattered and identified that someone was responsible.
- For attorneys, it means redress, a verdict, and damages consistent with the law’s remedies.
- For physicians, it means fairness, the assurance that they will not be punished for adverse outcomes that were not the result of negligence.
- For legislators, it means balance, protecting citizens’ rights while maintaining a viable medical system for the citizens of the state.

Each of these perspectives is valid, but they cannot all be justice simultaneously, because justice cannot contradict itself. To serve all, it must stand above all; it must be grounded in principle, not perception.

Justice, in its truest civic form, is the *equitable application of law to all persons, ensuring that rights, responsibilities, and consequences are distributed without favor or prejudice*. This understanding aligns with the classical legal tradition expressed by Blackstone, who defined justice as “the constant and perpetual disposition to render to every man his due” (Blackstone, *Commentaries on the Laws of England*, Book III).

If that definition was adopted as common ground, every stakeholder in the debate to repeal Subsection (8) would have a place in the system:

- Families would receive recognition through structured acknowledgment and fair compensation.

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- Physicians would receive due process through peer-determined findings.
- The community would receive protection from negligence through legislatively mandated corrective actions and disclosure.
- And the Legislature would fulfill its constitutional duty to preserve both justice and order.

What masquerades today as justice is, too often, little more than symbolic retribution, a verdict that satisfies emotion but leaves the machinery of harm untouched. Real justice must reach deeper: it must reform what failed, educate those responsible, and prevent repetition.

In that sense, justice is not a destination but a discipline —a continuous commitment to truth and fairness. It is the point at which the law and the moral conscience of the community meet: not to punish, but to restore.

When injured families say, *"We want justice,"* we must help them understand what that truly requires: not simply the right to speak before a jury, but the assurance that what happened to their loved one will never happen again. That is justice made real, not as a verdict, but as a vow.

IV. "It's Not About the Money"

Few phrases have been repeated more often or more uncritically by the advocates for repeal than *"It's not about the money."* It is uttered with sincerity, but sincerity alone does not make it true. If it were truly not about money, the repeal movement would have focused on systemic reform in the hospitals, administrative accountability at the Department of Health and the Agency for Healthcare Administration, and transparent peer review within the medical community long ago. It is worth noting that this is one of the two conditions Governor DeSantis called for when he vetoed HB 6017 in 2025. Instead, energy has been devoted almost exclusively to restoring the right to sue for noneconomic monetary damages. This process culminates not in moral acknowledgment but in a random valuation of the surviving family member's emotional pain and suffering.

The irony is inescapable. Civil litigation is, by design, a mechanism for financial redress. It cannot compel an apology from the offender, enforce remorse when the doctor believes he did no harm, or reform a hospital's practices to ensure patient safety in the future. It can only assign *fault* and *value*. Thus, to say "it's not about the money" while demanding

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access to a forum whose only outcome *is* money is to contradict the very nature of the process being sought. To make my point, I offer the following two quotes by Melody McDonald, founder and former Director of the Florida Medical Rights Association, while being interviewed by Ed Salazar on his podcast, where she said:

> *"I don't think anyone that I've ever talked to in all of the people who've come to me in a state of anger or grief, who said, I'd be okay with my loved one being dead if they would just give me a million dollars. You know, it's not about money. It's about how do you hold someone responsible?"*

In the same interview, she stated:

> *"I mean, let's face it, like, here in America, how we hold people accountable is with financial ways. Right?"*

Sadly, I believe far too many Americans share Ms. McDonald's myopic view of accountability. Genuinely, I think this stems from not thinking through their arguments and listening to how their own words are contradictory. Financial compensation is valid when negligence leads to your car being damaged, but since Ms. McDonald asserts that you can't put a price on a human life, why does she try to?

Towards the end of Florida's 2025 Legislative session, Sabrina Davis commented in a news interview:

> *"I have always said a $7,500 fine was not enough for the doctor that did this to my father. With this bill [HB6017], a $7,500 fine would not have been all he got."*

Her statement implies that the doctor's malpractice insurance company would have been required to pay for her pain and suffering had she been successful at trial. However, that award would have done nothing to correct the system's error that led to her father's death. Her efforts to repeal Subsection (8) run counter to her assertion that she advocates for repeal *"...so that no other family has to go through what [she] did*."

Moreover, the claim masks a more profound truth: what the advocates truly want is recognition, to have the State affirm that an injury occurred and that the loss of their loved one matters. That desire is entirely human and morally valid. But recognition cannot be purchased with litigation; it must be earned through institutional honesty. A civil verdict, no matter how large, cannot compel contrition. It cannot force a physician or hospital to admit fault or correct the conditions that caused the harm. The very fact that the doctor or hospital hired a legal defense team demonstrates that he or she will fight to prove that

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negligence did not occur. A jury's verdict is not going to change their mind and lead them to a corrective action.

By contrast, a properly functioning Department of Health and Board of Medicine/Nursing, armed with statutory transparency and mandated disclosure, can. A system that verifies negligence through peer review, acknowledges it before families, documents systemic corrections, and imposes fines substantial enough to alter behavior would grant the very recognition these families seek, without conflating grief with a dollar figure.

In truth, when advocates say, *"It's not about the money,"* what they mean is *"We want acknowledgment."* But acknowledgment is not a function of the civil courts; it is a function of character, conscience, and culture. The tragedy is not that families want too much, it is that the Legislature, the body of government created by the people to protect the people, has allowed the system to offer them too little for too long.

It is disingenuous for lawmakers to allow grief-stricken advocates to believe that a clean repeal of Subsection (8) will deliver the accountability they so desperately seek. Restoring access to the courts may correct a legal inequity, but it does not create the structural transparency that proper accountability requires. A jury verdict can assign fault and award money; it cannot compel a physician to acknowledge an error, reform a hospital's practices, or repair the systems that failed. A verdict demonstrates that the community, a jury of the victim's peers, agrees that a wrong has occurred and places a dollar value on the harm done to that one family. However, it does nothing, by itself, to prevent subsequent injury. Only systemic honesty—embedded in statute, administration, and professional culture—can accomplish that. Anything less is political theater masked as justice. The remedy must therefore move from performance to prevention, away from empty symbolic victories and toward durable safety.

V. "You Can't Put a Price on a Human Life"

At first hearing, this phrase feels unassailable, almost sacred. Spoken softly, often through tears, its very utterance carries moral authority. But in the realm of law, policy, and governance, this statement, however heartfelt, is neither true nor workable. The entire framework of wrongful death statutes and medical negligence law is built on assigning monetary value to losses, economic and non-economic alike.

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Earlier this year, when Governor DeSantis stated that he planned to veto HB6017 because it did not include caps or address administrative remedies, Sabrina Davis was interviewed by a local news station and made the following comment:

> *"So, if the governor believes that caps are going to fix it, then please, by all means, tell me what my father's life is worth, and maybe we can reach a consensus. But to me, you can't put a price on that life."*

And yet, that is precisely what a jury is going to do if Subsection (8) is repealed: assign a dollar value to her grief and emotional loss. Statements such as this do three things. First, they show that the advocates do not understand that a cap does not put a price on a human life. The caps discussed regarding the repeal of Subsection (8) would limit the monetary pain-and-suffering award to the surviving family member(s). Secondly—and more importantly—these types of statements shut down the conversation. If there is no room even to discuss a compromise based on something that no one can define, i.e., the value of one's pain and suffering, then all sides should go home. And finally, these types of statements do not address the actual negligence that led to the death, or how the State plans to correct it.

The hard truth is that our civil courts put a price on human life every day. They do it when they calculate lost wages, lost earning potential, funeral expenses, a lost arm, leg, or eye, and yes, even the pain and suffering of surviving family members. The process is not heartless; it is civilization's attempt under the social contract to translate moral harm into a form the law can recognize and redress. Without such valuation, the law would be impotent to remedy any injury beyond the strictly financial.

To say "you can't put a price on a human life" is therefore not a statement of justice, but an *emotionally-charged protest against reality.* It shuts down stakeholders' ability to come to the table to seek a resolution. If the State, through caps, or a jury, through an award, cannot put a price on a human life, **then why are the advocates seeking their day in court**? The truth is that juries do put a price on human life, as well as the emotional pain of the surviving family members, with every verdict/award.

The real question is not whether value will be assigned, but how and by whom**.** In a courtroom, that valuation is performed by jurors — lay citizens who must weigh emotional testimony and expert analysis before rendering a number that feels right to that particular jury. The result, inevitably, is inconsistency: one family's loss may be valued at $1 million, and another's at $10 million. This is based solely on rhetoric, performance, or local sentiment as much as the facts of the individual case.

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That disparity undermines the very equality the repeal advocates claim to seek. If justice is to mean anything, it must mean *uniformity in principle,* not randomness disguised as compassion. The value of a life cannot depend on the eloquence of an attorney or the sympathies of a particular jury.

The proper solution, therefore, is not to deny valuation but to standardize it in such a way that honors every family equally. A consistent non-economic acknowledgment, established by the community through its laws, says: *We grieve all losses the same; we recognize every life as precious, without competition or exaggeration.* In this way, the community—not twelve temporary jurors—defines what loss means and what recognition and compensation look like. That is how society reclaims both dignity and order, by replacing sentiment with structure and emotion with equity.

Critically, it is worth noting that this standardization of pain and suffering awards cannot be translated to those victims who survived a medical negligence event. For those victims, their pain and suffering will follow them for the remainder of their lives. I am strictly addressing the pain and suffering of those who lost a loved one to medical negligence, not those who directly suffered it.

VI. "Governor DeSantis Did Not Meet with the Families"

One of the most frequent complaints voiced by the advocates for repeal is that Governor DeSantis "refused to meet with the families." This grievance has been repeated so often that it has taken on the weight of accusation, as though a governor's unwillingness to hold private audiences were itself an act of cruelty. Yet such expectations reveal a misunderstanding of both the constitutional role of a governor and civic order.

The Governor of Florida, as chief executive of the State, is not the personal arbiter of every citizen's complaint. His duty is to the State as a whole, not to any single constituency. A governor's responsibility is to preserve balance among competing interests, uphold the law as enacted, and ensure that administrative functions serve the public good. The act of meeting privately with individual families who hold emotional stakes in pending legislation would, if anything, blur the line between empathy and governance.

The advocates' disappointment, however understandable, has been compounded by their own conduct. Acts such as spray-painting graffiti portraying Governor DeSantis as "Satan," social media posts labeling him "Hitler," and public accusations of "evil" behavior have replaced civil discourse with counterproductive rhetoric. Other lawmakers, even those who

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worked tirelessly to repeal Subsection (8), were dubbed by the advocates for repeal, such as 'turncoat,' 'traitor,' 'spineless coward,' 'a wolf in sheep's clothing,' 'can't be trusted,' and worse. Such actions may generate sympathy among those already converted, but they tend to alienate the very officials whose cooperation is necessary for reform. No governor—of any party or persuasion—could reasonably be expected to reward incivility with audience.

Some of these actions earned a 25-minute rebuke on the Senate floor during the 2025 legislative session, specifically of the person/group who placed a billboard across the street from a Senator's home, claiming she placed profits before people. These types of billboards now appear across Florida, with more promised for those who do not align with the repeal advocacy group. The leader of the billboard campaign, Daryl Perritt, went so far as to threaten that for those who do not vote to repeal Subsection (8), "This will get ugly." I contend this type of behavior does not foster civil communication and resolution. It draws lines in the sand and alienates the very people who have the constitutional authority to repeal Subsection (8).

Members of the legislative body of government are aware that Public Officials respond not only to arguments but to tone, discipline, and respect for office. When advocacy descends into mockery, it transforms moral urgency into political noise. The families who lost loved ones deserve to be heard, but the manner of their appeal matters. Passion need not be vulgar to be powerful; grief need not be theatrical to be persuasive.

In a recent interview, Melody McDonald (FMRA), stated that over 700 letters (approximately 0.00294% of Florida's current population) were sent to the Governor requesting personal meetings on behalf of families. What she did not disclose, however, is that many of those letters were not unique. Some people mailed multiple copies of the same request. In some instances, the letters were sent in the names of the deceased themselves, a tactic that no doubt inflated the appearance of public demand but undermined the credibility of the effort. Such embellishment does not strengthen a cause; it weakens it. When advocacy resorts to theatrics or manipulates numbers to manufacture urgency, it signals desperation rather than discipline. The power of a petition lies in its sincerity and its respect for truth, qualities that no quantity of letters, real or contrived, can substitute for.

Governor DeSantis's veto of HB6017 in 2025 was accompanied by a rationale rooted in policy, not indifference. He stated that he would consider signing a future bill containing damage caps and ***stronger mechanisms for medical accountability through the administrative agencies***, thus opening the dialogue for pragmatic reform that the advocates ignored. By digging in their heels and responding with outrage rather than

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engagement, they squandered an opportunity to advance their cause through civility and reason.

In truth, the Governor did not turn away from the families; he turned away from the spectacle that their movement had become. Leadership cannot negotiate with tantrums. If the repeal effort is to succeed, it must present itself not as a chorus of grievance but as a campaign of reason—anchored in civility, guided by principle, and worthy of the audience it seeks. This is not a defense of the Governor's decision to veto HB6017, but an observation of how tone, discipline, and credibility determine access to power.

VII: Allegations Are Not Evidence: Beginning the Conversation on Common Ground

Every meaningful discussion of medical negligence must begin with a shared understanding of what constitutes evidence. In the current debate surrounding §768.21(8), the distinction between allegation and substantiation has been blurred—sometimes unintentionally, sometimes deliberately. The stories shared by many advocates are heartfelt, tragic, and deeply human. Except for one documented exception that I am aware of, they remain unverified accounts, not confirmed findings of negligence. NOTE: I am aware of one other case, but, to my understanding, it is currently in litigation.

These families have experienced something truly devastating: the sudden and often unexplained death of a loved one. Their pain is real, and their search for answers is justified. Nonetheless, the reality of modern medicine—and the legal system that governs it—is that grief, however genuine, does not equal proof. The vast majority of the stories now shaping public perception have never been reviewed or validated by a Medical Expert, the Florida Board of Medicine, or any comparable body. They remain allegations voiced by individuals with little or no medical training, laypersons who are unfamiliar with the complex and unfamiliar language of medicine, attempting to interpret events they did not fully understand, often under conditions of shock, loss, and devastating grief. The process of medical diagnosis and treatment is foreign to them. They do not comprehend the tests, nor do they know how to interpret the results. They do not understand the procedures or the risks involved in diagnosing or treating injuries and diseases. Without training on par with that of a physician, how could they be expected to understand the risks involved in treating a sick or injured loved one? And finally, they have no real-life, hands-on experience delivering bedside care, nor do they have any personal experience to draw on to understand the split-second decisions that must be made when things take a turn for the

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worse. It's easy to Monday-morning quarterback when you have not participated in the stressful, minute-to-minute battle to save a human life.

This is where the breakdown begins. After a patient dies, the family turns to the hospital staff or the attending physician for answers. Sadly, instead of receiving an explanation, they are met with silence. Lawyers and administrators, fearing liability, instruct medical staff to say nothing. In those quiet hallways of withheld information, grief evolves into suspicion. The family's imagination fills the vacuum left by institutional reticence, and what began as a desperate need for understanding hardens into accusations of negligence.

Professional silence—though legally prudent for the hospital or physician—is emotionally catastrophic to the family. It transforms sorrow into anger and confusion into conviction. Families, left without dialogue, explanations, or transparency, begin to believe that someone must be hiding something. From that belief, a narrative forms, and before long, a tragedy becomes an allegation—one that is repeated in the media and before lawmakers as though it were a proven fact.

At this stage, families often turn to other family members or friends, or friends of family members who work in the medical profession, to help decode their loved one's medical record. Worse yet, some families turn to the Internet to seek answers, and these Google searches become their reality. They become further convinced by something they found on Google, then share that with a reporter covering the repeal of Subsection (8), and before long, their speculation has become common. It is then repeated over and over again as though it is a substantiated truth. This is sad. This is not science, and it is not law.

To rebuild trust and restore clarity, we must begin from a level field of truth. Not every bad outcome is negligence, and not every death is preventable. Likewise, not every grieving family is wrong in suspecting negligence. But until allegations are verified through competent peer review, they remain claims—not evidence. Legislators and the public alike must respect the difference, not to diminish the families' pain, but to ensure that policy is built on proof, not passion. Only then can we begin an honest conversation about reform. When grief and truth finally meet on common ground, understanding becomes possible, healing can begin, and justice—real justice—can take root.

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VIII: Addressing the Real Problem: Preventing Malpractice Instead of Arguing Over It

For more than thirty-five years, Florida's debate over §768.21(8) has revolved around who may sue, how much they may recover, and whether doctors can afford insurance premiums. Yet in all that time, virtually no one has asked the question that matters most: *Why is malpractice still occurring at such a rate that we must legislate around it rather than eliminate it?*

The unspoken truth is that §768.21(8) was never intended to improve medical care. It was a political compromise, born out of fear of lawsuits, not out of a plan to improve medical outcomes. It shifted attention from the root cause — preventable medical error — to the secondary effect — litigation. As a result, the Legislature has spent **three and a half decades** trying to manage the optics of negligence rather than its reality.

During recent legislative sessions, opponents of repeal have warned that repealing Subsection (8) could trigger 500 to 1,500 new malpractice lawsuits each year. They rarely cite their source, and it is difficult to imagine how such a projection could be made unless every personal injury law firm in Florida was polled about how many cases they turn away each year under the statute. But let us suppose, for the sake of argument, that their estimate is correct. If 500 to 1,500 potential additional malpractice claims that lead to a death truly exist each year, that means there are an additional 500 to 1,500 preventable medical errors taking place, errors serious enough to lead to a death, that families feel compelled to seek justice. The State's concern, then, should not be suppressing those claims, but preventing the negligence that creates them. If those numbers are even close to accurate, they represent not a legal crisis, but a *systems failure*.

The surest way to reduce malpractice cases is not to limit access to the courts—it is to minimize malpractice itself. That means returning to the principles of transparency, documentation, and early disclosure that should be hallmarks of ethical medicine. Hospitals should view self-reporting not as a liability, but as a moral obligation and a financial safeguard. The more forthright the institution, the fewer lawsuits it will face.

Insurance companies, too, have every incentive to support a system of prevention over litigation. Their profitability depends on reducing risk exposure. A state medical system that actively identifies and corrects errors before harm occurs is one in which insurers prosper without premium inflation. It is the most straightforward economic truth: *an insurer's most profitable client is the one who never needs to file a claim*.

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Likewise, hospital legal departments should welcome such reform. When doctors and administrators are empowered to communicate openly and compassionately with families after an adverse event, the cycle of anger and suspicion is terminated before it begins. What follows is not confrontation, but cooperation — fewer lawsuits, faster resolutions, and restored public confidence.

Even from the physician's perspective, prevention is the soundest business model. Any accountant advising a medical practice should encourage the doctor to reduce exposure to claims as a matter of fiscal prudence. Safer practices mean lower premiums, fewer disruptions, and less reputational risk. In purely economic terms, improving safety is not just good medicine; it is good management.

The Legislature has spent decades debating who may sue after the fact. It is time to address why they need to sue at all. Repealing §768.21(8) will correct an injustice, but it will not fix the problem that caused it. That will require leadership willing to look beyond politics and toward prevention, to build a system that stops harm before it happens, rather than arguing endlessly over who deserves compensation after it does. Let us fix the system, not just argue over who gets to sue after it fails. Let us remember that the strength of any system is proven not by its perfection, but by how it responds when imperfection is revealed.

The same principle that governs every successful business applies equally to medicine: it is not the first encounter that defines a relationship, but how problems are handled afterward. As Dr. W. Edwards Deming taught in the field of quality management, enduring trust is built not through perfection, but through responsiveness and integrity when imperfection occurs. A patient who experiences complications but is met with honesty, empathy, and a genuine commitment to correction is far more likely to retain confidence in their physician or hospital than one who is met with silence, deflection, or lawyers. The manner in which a hospital or doctor manages the aftermath of an adverse event becomes, in effect, the measure of their professionalism. Service after the treatment — openness after the error — is what transforms an institutional failure into an opportunity for restoration, learning, and long-term trust.

Closing Statement: Restoring Faith in the System

If the purpose of law is to preserve both justice and order, then §768.21(8) has failed on both counts. It has denied justice to families, excused accountability from institutions, and eroded public confidence in the State's ability to protect its citizens. But repeal alone will

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not restore faith. That will require a Legislature willing to look beyond partisanship and rhetoric, to address the real problem — medical negligence — and repair the systems that conceal it. HB 6003 presents a renewed opportunity not simply to repeal a flawed subsection, but to adopt a model that improves safety, restores trust, and provides structured accountability.

For more than a year, I have brought the experience of 'The Michigan Model,' sometimes referred to as *the Disclosure, Apology, and Offer (DA&O) framework,* to the attention of both advocates for repeal and Florida State Legislators, only to have my emails and podcasts fall on deaf ears. Once again, I strongly recommend that the Florida Legislature examine how the University of Michigan turned its medical malpractice crisis into a reality where all sides win. In simple terms, they looked for ways to reach Nash Equilibrium, and it has worked.

True reform begins not in the courtroom, but in the quiet moments when a doctor, a hospital, or a state agency chooses honesty over silence. When error is met with transparency, when accountability is measured by correction rather than condemnation, and when every life is valued equally in both compassion, compensation, and law, the people of Florida will once again believe that their government serves them in truth and fairness. That is the promise of justice fulfilled, and the standard by which history will judge the decisions of the 2026 Florida Legislature.

In closing, I am aware that my role in this discussion has often placed me outside the circle of easy agreement. Yet dissent, honestly given, is an act of loyalty to the cause it serves. The repeal of Subsection (8) demands not only moral resolve but intellectual integrity—the willingness to test every assumption before it hardens into dogma. If these pages have unsettled rather than pleased, I take that as a sign that they have fulfilled their purpose. Reform built on reason will endure; reform built on sentiment alone will not. I hope that this paper has played a part in ensuring the former.

Respectfully Submitted,

Philip Glickstein

Founder: Legalized Negligence and The Accountability Gap

Personal Representative for the Estate of Wynelle A. Glickstein, Date of Death 20MAY20

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